

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CELERINO CARRASCO,

Plaintiff,

v.

UNITED STATES GOVERNMENT,  
DEPARTMENT OF HOMELAND  
SECURITY, et al.,

Defendants.

Case No. C06-5104RJB

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION OF  
THE MAGISTRATE  
JUDGE AND  
DISMISSING CASE

This matter comes before the court on the Report and Recommendation of the magistrate judge.  
Dkt. 18. The court has considered all the entire record in this case.

Plaintiff filed a civil rights complaint and is proceeding *in forma pauperis*. He has already filed an amended complaint in this case. Dkt. 7. February 12, 2007, the magistrate judge issued a Report and Recommendation, recommending that this case be dismissed without prejudice for failure to properly serve defendants with a summons and copy of the complaint, or in the alternative, that the court should dismiss the matter with prejudice because plaintiff has failed to state any cognizable claim against any individual participant. Dkt. 18.

On February 20, 2007, plaintiff filed objections to the Report and Recommendation. Dkt. 19. The objections included exhibits, showing that plaintiff sent copies of the summons and complaint, through the Mexican postal service. Dkt. 19, Exh. 1-3. The envelopes are addressed as follows:

1 To: Correctional Service Corporation  
2 G.c Wilson and C. Cheek  
3 1623 East "J" Street  
4 Suite 2 Tacoma Wa.  
5 98421.

6 Dkt. 19, Exh. 1 and 2.

7 On March 2, 2007, the court received two documents that were filed in this case. The documents  
8 are captioned "Supersiding [sic] Objections and Appeal Against Order Dismissed" (Dkt.20) and  
9 "Supersiding [sic] Objections for Purposes of Appeal and Against Order of Dismissal" (Dkt. 21). It is  
10 unclear whether plaintiff intended that the court consider these documents in reference to C06-5084RJB or  
11 in reference to this case. It is also unclear whether plaintiff intended these documents to be objections to  
12 the Report and Recommendation or to be a Notice of Appeal. In an effort to give plaintiff every benefit of  
13 the doubt, the court has considered all of these documents in reference to this case and to C06-5084RJB.  
14 In addition, the court has considered these the two documents filed on March 2, 2007 to be objections to  
15 the Report and Recommendations in this case and in C06-5084RJB, and to constitute notices of appeal in  
16 both of the cases.

17 The Report and Recommendation clearly and thoroughly sets forth the procedural history in this  
18 case. Plaintiff has not properly served any of the named defendants, as he has been ordered to do. Sending  
19 a copy of the summons and complaint to the Correctional Service Corporation is not adequate service,  
20 under Fed.R.Civ.P. 4, with respect to the United States Government or the Department of Homeland  
21 Security. He was informed of his responsibility to properly serve the named defendants. Although plaintiff  
22 is now residing in Mexico, he has had adequate time and opportunity to properly serve defendants, and to  
23 provide proof of service. He has failed to effectuate proper service under Fed.R.Civ.P. 4. Plaintiff believes  
24 that sending a summons and/or complaint through the mail to the Correctional Services Corporation of  
25 America, the United States Department of Homeland Security, and U.S. Citizenship Immigration Service  
26 constitutes adequate service. The magistrate judge thoroughly and carefully reviewed the requirements for  
27 proper service of a summons and complaint; plaintiff did not comply with those requirements. Accordingly,  
28 the court should dismiss this case.

Furthermore, the court concurs with the conclusion of the magistrate judge that plaintiff has failed  
to state a civil rights claim against any of the named defendants. It is not appropriate for the court to

1 permit plaintiff to file an amended complaint in an attempt to cure any deficiencies, since he has already  
2 filed an amended complaint.

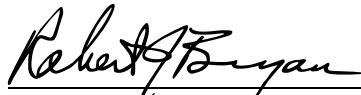
3 The court has previously vacated the judgment in this case so that documents plaintiff untimely filed  
4 could reviewed on the merits. Any documents received from plaintiff after judgment is again entered in  
5 this case should be placed in the file by the Clerk, but the court will not consider them.

6 Therefore, it is hereby

7 **ORDERED** that the Report and Recommendation of the magistrate judge (Dkt. 18) is  
8 **ADOPTED**. This case is **DISMISSED**. **The Clerk is directed to file any documents received from**  
9 **plaintiff after judgment is entered, but the court will not consider them.** The Clerk is further directed  
10 to file the following documents as a Notice of Appeal in this case: the document captioned "Supersiding  
11 [sic] Objections and Appeal Against Order Dismissed" (Dkt. 20); and "Supersiding Objections of Appeal  
12 and Against Order of Dismissal" (Dkt. 21)

13 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
14 party appearing *pro se* at said party's last known address.

15 Dated this 9<sup>th</sup> day of March, 2007.

16  
17   
18 Robert J. Bryan  
United States District Judge